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MINUTES OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA  
FOR MEETING HELD ON TUESDAY EVENING, DECEMBER 9, 2008

The Council met at 7:05 pm for a regular meeting in the City Hall Council Chambers. The meeting was opened with the recitation of the Pledge of Allegiance and the reading of an Invocation Prayer.

Present: Council Members Dominic J. Caserta, Will Kennedy, Patrick Kolstad, Joe Kornder, Jamie McLeod and Kevin Moore and Mayor Patricia M. Mahan.

Staff present: City Manager, Assistant City Manager, Director of Planning and Inspection, Acting Director of Public Works - Tom Supan, City Attorney and City Clerk/Auditor.

3.A The Council proceeded to consider the Minutes of the November 18, 2008 Council meeting. Council Member McLeod requested a greater level of detail reflecting her dissenting vote related to the revision of the Council Minutes of November 16, 2004 (agenda item no. 6.B). A Council discussion followed and the City Clerk answered Council questions and clarified the normal process and content included in the Minutes. Council Member Caserta stated that he would be abstaining the issue (subject within the Minutes regarding his primary residence) and stepped off the dais. MOTION was made by Kennedy, seconded and carried with Caserta abstaining (subject within the Minutes regarding his primary residence), that the Council **refer** the matter to the City Clerk for review.

3.B The Council proceeded to consider the Minutes of the November 25, 2008 Council meeting. Council Member McLeod requested a greater level of detail reflecting her dissenting vote related to the revision of the Council Minutes of November 16, 2004 (Agenda Item No. 6.B). MOTION was made by Kennedy, seconded and carried with Caserta abstaining (subject within the Minutes regarding his primary residence), that the Council **refer** the matter to the City Clerk for review.

Council Member Caserta returned to the dais.

5.A

The City Council proceeded to consider the canvass of the results of the General Municipal Election held on Tuesday, November 4, 2008, and the City Clerk's report (12/02/08) entitled "Adoption of a Resolution Reciting the Final Results of the General Municipal Election Held on November 4, 2008." The City Clerk summarized the contents of the certification report which sets forth the following results of the Official Canvass made by the County Registrar of Voters:

- (1) Eligible Registered Voters - 46,570
- (2) Total Ballots Cast - 40,046
- (3) Voter Turnout - 86%

OFFICES AND NAMES OF CANDIDATES AND TOTAL VOTES RECEIVED:

- (1) COUNCIL MEMBER, SEAT NO. 3 (Full Term)
  - \*William Kennedy - 17,957
  - Mary Emerson - 8,614
  - Mario Bouza - 4,464
- (2) COUNCIL MEMBER, SEAT NO. 4 (Full Term)
  - \*Kevin Moore - 26,048
  - Karen Hardy - 1,734
- (3) COUNCIL MEMBER, SEAT NO. 6 (Full Term)
  - \*Jamie L. Matthews - 19,195
  - Brian Lowery - 11,145
- (4) COUNCIL MEMBER, SEAT NO. 7 (Full Term)
  - \*Jamie McLeod - 18,305
  - Chuck Blair - 8,292
  - Ciaran O'Donnell - 4,147
- (5) CHIEF OF POLICE (Full Term)
  - \*Steve Lodge - 27,864
- (6) CITY CLERK (Full Term)
  - \*Rod Diridon, Jr. - 27,329

\*Received highest number of votes.

MOTION was made by Kennedy, seconded and unanimously carried, that the Council adopt Resolution No. 08-7581 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA, CALIFORNIA, RECITING THE FACT OF THE GENERAL MUNICIPAL ELECTION HELD ON NOVEMBER 4, 2008, DECLARING THE RESULT AND SUCH OTHER MATTERS AS PROVIDED BY LAW" and that the Council accept the Certified Statement of Election Results and declare that the following Candidates, having received the highest number of votes, are duly elected for the below shown offices for the full four year term: COUNCIL MEMBER, SEAT NO. 3 - William Kennedy; COUNCIL MEMBER, SEAT NO. 4 - Kevin Moore; COUNCIL MEMBER, SEAT NO. 6 - Jamie L. Matthews; COUNCIL MEMBER, SEAT NO. 7 - Jamie McLeod; CHIEF OF POLICE, Steve Lodge and CITY CLERK, Rod Diridon, Jr.

Council Member Kolstad made a farewell speech. He received a standing ovation from the audience and stepped down from the Council dais. Mayor Mahan presented Council Member Kolstad with an engraved plaque, engraved clock, City flag and a letter of appreciation from the City Council. Several framed letters of appreciation, certificates of recognition and resolutions were presented from various companies and legislators. Photographs were taken.

5.B

City Clerk Rod Diridon, Jr. administered the Oath of Office to re-elected Council Member Kennedy, elected Council Member Matthews and Chief of Police, Steve Lodge. Retired Judge Lawrence Terry administered the Oath of Office to re-elected Council Member Moore. Retired Judge LaDoris Cordell administered the Oath of Office to re-elected Council Member McLeod. Assistant City Clerk Jennifer Yamaguma administered the Oath of Office to re-elected City Clerk, Rod Diridon, Jr.

The newly elected and re-elected City officials made acceptance speeches.

The Council recessed for a reception honoring the outgoing and incoming City officials.

SECOND ROLL CALL: Present: Council members Dominic J. Caserta, Will Kennedy, Joe Kornder, Jamie L. Matthews, Jamie McLeod and Kevin Moore and Mayor Patricia M. Mahan.

- 6.A As an item of Unfinished Business, Shashiraj Jeripotula addressed the Council expressing concern with the construction taking place at Mansion Grove apartments. Due to his desire to review the project files, he asked that the Council reconsider the Council action from the December 2, 2008 Council meeting regarding the revised Records Retention Schedules. The City Clerk reviewed the process for retaining and requesting any Public Records, including project files. A Council discussion followed. By Council consensus, the feasibility of archiving audio recordings of Commission meetings on a long-term basis was referred to the City Manager.
- 7.A.1 MOTION was made by Caserta, seconded and unanimously carried, that per the Acting Director of Parks and Recreation (11/25/08), the Council accept the work performed by Robert A. Bothman, Inc. for the Washington Park Lighting Replacement Project and authorize the recordation of the Notice of Completion.
- 7.A.2 MOTION was made by Caserta, seconded and unanimously carried, that per the Acting Director of Parks and Recreation (05/06/08), the Council accept a donation from Shirley A. Saddoris, in the amount of \$100, to help support the Senior Center Nutrition Program and authorize the transmittal of a letter of appreciation signed by the Mayor and City Manager.
- 7.A.3 MOTION was made by Caserta, seconded and unanimously carried, that per the Acting Director of Parks and Recreation (12/03/08), the Council accept a donation from Mr. and Mrs. Merritt Benson, in the amount of \$100, to help support the Senior Center Fitness Program and authorize the transmittal of a letter of appreciation signed by the Mayor and City Manager.
- 7.A.4 MOTION was made by Caserta, seconded and unanimously carried, that per the Director of Electric Utility (12/03/08), the Council approve the use of City Electric Forces for installation of facilities at 1525 Comstock Street and 5401 Lafayette Street.
- 7.A.5 MOTION was made by Caserta, seconded and unanimously carried, that per the Senior Staff Aide (12/02/08), the Council accept the Triton Museum of Art semi-annual acquisition report.

- 7.A.6 MOTION was made by Caserta, seconded and unanimously carried, that per the Director of Finance (12/05/08), the Council accept the City of Santa Clara Audited Comprehensive Annual Financial Report (CAFR) for fiscal year ended June 30, 2008 as recommended by the City Council Audit Committee; accept the separate financial report for the City's Electric Utility Silicon Valley Power; and direct the City Manager to file the City's external auditors, Vavrinek, Trine, Day & Co., L.L.P., Code of Professional Conduct.
- 7.A.7 MOTION was made by Caserta, seconded and unanimously carried, that per the Fire Chief (11/26/08), the Council adopt Resolution No. 08-7582 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA, CALIFORNIA DECLARING WEEDS TO BE A NUISANCE AND SETTING A HEARING DATE FOR THE CITY COUNCIL TO HEAR PUBLIC INPUT REGARDING THE PROPOSED DESTRUCTION OR REMOVAL OF WEEDS", which declares weeds to be a nuisance; set January 27, 2009 for a Public Hearing; and authorize the publication of the Notice of Public Hearing.
- 7.B.1 MOTION was made by Caserta, seconded and unanimously carried, that per the Director of Electric Utility (12/02/08), the Council approve, and authorize the City Manager to execute, Amendment No. 1 to the Service Agreement with Standard Aero Ltd, in an amount not to exceed \$500,000, for maintenance, repair and parts for the Allison Gas Turbines.
- 7.B.2 MOTION was made by Caserta, seconded and unanimously carried, that per the Director of Planning and Inspection (12/01/08), the Council approve adding the property at 753 Park Court to the Architecturally or Historically Significant Properties List and authorize the City Manager to execute a Historic Property Preservation Agreement (Mills Act Contract) with Richard and Carol Mitchell (PLN2008-07239).
- 7.B.3 MOTION was made by Caserta, seconded and unanimously carried, that per the Director of Public Works/City Engineer (12/03/08), the Council approve, and authorize the City Manager to execute, an Agreement and Covenant Running with the Land with The George Sorich Company to retain and maintain a curb ramp and retaining walls encroaching into the public right-of-way at 3149 Stevens Creek Boulevard and authorize the recordation of the Agreement (APN 303-18-049; S.C. 18,354).

7.C.1,2,3 MOTION was made by Caserta, seconded and unanimously carried, that the Council note and file the following Informational Memos: "2008 Annual Report/2009 City Calendar (Public Communications Manager - 11/24/08); Impact of Financial Crisis on City of Santa Clara (Director of Finance 12/09/08); and City Council Committee List for Council Review (Executive Assistant to the Mayor and City Council 12/09/08).

7.D.1 MOTION was made by Caserta, seconded and unanimously carried, that the Youth Commission Minutes for the meeting held on November 4, 2008 be adopted as written.

7.D.2 MOTION was made by Caserta, seconded and unanimously carried, that the Senior Advisory Commission Minutes for the meeting held on November 24, 2008 be adopted as written.

10. Under Public Presentations, Snashiraj Jeripotula (provided handout) addressed the Council with concerns regarding the Mansion Grove Apartments.

Dana Upadmayay addressed the Council also with concerns regarding the Mansion Grove Apartments, including the notification process to residents prior to construction. A Council discussion followed and the City Manager and City Attorney answered Council questions. By Council consensus, the issue was referred to City Manager for a report back to Council on January 27, 2009.

11.A MOTION was made by Caserta, seconded and unanimously carried, that the Council approve the Bills and Claims and Progress Payments.

12.A Under Reports of Councilors and Special Council Committees, Council Member McLeod complimented staff on the City of Santa Clara Audited Comprehensive Annual Financial Report (CAFR).

14.A MOTION was made by Caserta, seconded and unanimously carried, that per the City Attorney, the Council set Tuesday, December 16, 2008 at 5:30 pm for a Closed Session in the Council Conference Room for a Conference with Real Property Negotiator pursuant to Government Code Section 54956.8 regarding Property: APN 104-43-051, APN 104-43-052, APN 104-43-030, APN 104-42-014 and APN 104-42-019; Negotiating Party(ies): Cedar Fair and the San Francisco 49ers; City Negotiator: Jennifer Sparacino, City Manager (or her designee); Under Negotiation: Purchase/Sale/Exchange/Lease of Real Property (provisions, price

and terms of payment) and, per the City Attorney (12/05/08), set Tuesday, January 13, 2009 at 5:00 pm for a Closed Session in the Council Conference Room for a Conference with Real Property Negotiator pursuant to Government Code Section 54956.8 regarding Property: APN 104-43-051, APN 104-43-052, APN 104-43-030, APN 104-42-014 and APN 104-42-019; Negotiating Party(ies): Cedar Fair and the San Francisco 49ers; City Negotiator: Jennifer Sparacino, City Manager (or her designee); Under Negotiation: Purchase/Sale/Exchange/Lease of Real Property (provisions, price and terms of payment).

- 15.A MOTION was made by Caserta, seconded and unanimously carried, that there being no further business, the meeting was adjourned at 9:19 pm to Tuesday evening, December 16, 2008 at 5:30 pm for a Closed Session in the Council Conference Room and to 7:00 pm for a special meeting in the City Hall Council Chambers and to Tuesday evening, January 13, 2009 at 5:00 pm for a Closed Session in the Council Conference Room and to 7:00 pm for the regular scheduled meeting in the City Hall Council Chambers.

ATTEST: \_\_\_\_\_

City Clerk

APPROVE: \_\_\_\_\_

Mayor